CF0000088042

IN THE HICH COURT OF JUDICATURE AT BILASPUR

CR. REVISION 44 OF 2000

1. SMT. IMMU VASHISTA Wife of Shri K.K.Vashista, resident of Shadani Chowk, Raipur

2. KU. CHETNA BALA VASHISTA Daughter of Shri K.K.Vashista, resident of Shadani Chowk, Raipur

VERSUS

STATE OF CHHATTISGARH Through Economic Offences Wing, Raipur NON-APPLICANTS

CRIMINAL REVISION UNDER SECTION397 READ WITH SECTION 401 OF CODE OF CRIMINAL PROCEDURE, 1973.

(7)

XI-HC 2

~~उच्च न्यायालय, मध्यप्रदेश, जबलपुर~~

High Court of Chhattisgarh, Bilaspur.

आदेश पत्रक

Cri. Revision No.44/2000.

मामला क्रमांक ..... सन् 199

..... विरुद्ध .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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| 11/01/2001 :- | Shri B.P. Sharma, learned counsel for the applicants.<br>Shri Ranveer Singh, learned Govt. Advocate, for the State/non-applicant.<br><br>With the consent of the parties the matter is finally heard.<br><br>The applicants are aggrieved by order dated 01/12/2000 passed by the Special Judge, Bastar (Jagdalpur) rejecting the applicants' application filed under Section 457 Cr.P.C..<br><br>(2) According to the applicants the check period is between 3/11/1981 and 3/11/1996, therefore, the amount which is lying in deposit in the name of applicant No.2 Ku. Chetna Bala Vashista w.e.f. 17/7/1980 till date is beyond the check period and the Court even is not entitled to take cognizance in relation to the said amount. The applicants submit that as applicant No.2 is to be married the applicants are in dire need of money and ~~therefore~~ if the money is not given to them simply because the investigation is going on against K.K. Vashista for last more than four years the applicants would suffer irreparable injury and the future prospects of the | |

[पीछे देखिये

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित (2) | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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applicants would be marred. The applicants have prayed that they are ready and willing to furnish solvent security to the satisfaction of the trial Court for restoration of the money in the event the said K.K. Vashista stands convicted and the Court passes any order in relation to confiscation of the said amount lying with the Punjab National Bank in account No. MBFD-921.

(3) Learned counsel for the State submits that as the learned Court below has exercised its discretion in accordance with law and the amount lying in deposit appears to be foul money the same cannot be returned back to the applicants.

(4) I have heard the parties at length and perused the records.

(5) From the statement of account in connection with account No.MBFD-921 of Punjab National Bank, Main Branch, Jai Stambh Chowk, Raipur it would clearly appear that ~~as~~ initial amount of Rs.33,000/- was deposited on 17/7/1980, the said amount was gaining interest for sometime and on 28/9/1996 the said amount became Rs.1,89,986/-. According to Shri Sharma, learned counsel for the applicants, the said amount was re-invested and is still gaining interest on the same. On the face of the statement of the account issued by

GRPRJ—FS/4—4/99—20.000.

HC-22

उच्च न्यायालय, मध्यप्रदेश, जबलपुर

High Court of Chhattisgarh, Bilaspur.

आदेश पत्रक

मामला क्रमांक ..... सन् 199

..... विरुद्ध .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित (3) | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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the Punjab National Bank, and the letter dated 5/12/1997 issued by the Chief Engineer to the present applicants would show that the check period was between 3/11/1981 and 3/11/1996. At this stage there is no reason to hold that the amount in dispute is falling within the check period. If the said amount is beyond the check period then ordinarily there should be no problem in giving the money back to applicant No.2 who wishes to utilise the same for her future prospects especially for her marriage.

(6) After hearing the parties I am of the opinion that the revision-petition deserves to be allowed. The order passed by the Court below on 1/12/2000 is set aside. The application filed by the applicants for disposal of the property is allowed on the following terms :-

(a) The amount lying in deposit in the account No.MBFD-921 shall be paid to the applicants on their submitting an unconditional undertaking before the lower Court that in the event of an order relating to confiscation of money the said amount would be re-deposited by them immediately.

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Cr.R 44/2000

आदेश पत्रक ( पुर्वानुबद्ध )

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित (4) | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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(b) The applicants shall also be required to furnish solvent security of some local surety to the satisfaction of the lower Court for due performance of the order/ judgment passed by the said Court clearly undertaking that in the event the amount is confiscated the said surety would immediately deposit the money and in case the said money is not deposited by him the money can be recovered from his immovable property. As and when the surety would submit the surety bond the Court shall be entitled to verify about the authenticity and ~~of~~ the solvency of the said surety.

(7) On issuance of a direction by the lower Court the said money would be paid by the Punjab National Bank to the applicants.

(8) The petition is finally disposed of with the directions aforesaid.

Certified copy of this order be supplied today.

Sd/-
R.S. Garg
Judge